

**Part 23 Local Rules**  
**Hon. Eric Schumacher, J.S.C.**

Supreme Court of the State of New York  
New York County, Civil Term  
71 Thomas Street Room 311  
New York, New York 10013-3821

**Principal Law Clerk:** Joshua D. Demopoulos, Esq.

**Part Clerk:** [SFC-Part23-Clerk@nycourts.gov](mailto:SFC-Part23-Clerk@nycourts.gov), (646) 386-3754

**I. Overview**

- A. The Supreme Court's [Uniform Rules of the Justices](#) apply in this part. Where the Part 23 Local Rules supplement or differ from the Uniform Rules, in Part 23, the local rules are controlling.
- B. This part uses customized conference forms. You must obtain them from the part clerk by email or in person. Only barcoded forms generated by the part clerk for your case and conference date will be accepted. You may not strike through or ignore any preprinted court directive therein during the preparation of your form unless it is clearly inapplicable to your case type.
- C. Typically, the court conducts discovery conferences and oral arguments on Wednesdays, beginning at 9:30 a.m. and 2:15 p.m., respectively.
- D. All appearances before the court shall be in person.

**II. Discovery Conferences**

- A. You are to check in with the court officer upon arrival to register your appearance for all preliminary, compliance, and status conferences. The court will call cases as they are ready. A ready case has all parties present with a completed conference form.
  - 1. Parties will submit their completed conference form to the clerk.
- B. You are strongly encouraged to complete the conference form with all parties prior to your scheduled conference time and bring a copy with you to the appearance for review. Email the part clerk to obtain a copy with your case caption and barcode. If you need a copy printed in the part, you can get it from the part clerk at any time.
  - 1. The court does not accept proposed conference orders in lieu or in advance of a conference.

- C. You must appear for all discovery conferences with access to all case filings. You must be familiar with the underlying case and have the authority to discuss and resolve all discovery and case issues, including settlement.
  - 1. Every attorney appearing on behalf of a party at a conference must be fully prepared to discuss the details of the underlying action and have a working knowledge of any material issues. This includes attorneys who are of counsel, “per diem,” junior associates, etc.
  - 2. Attorneys must be able to provide information about any pending appeals, prior motion practice, outstanding motions and motions that they intend to file.
- D. Scheduled EBTs may **NOT** be adjourned without leave of court. You must email the part clerk as soon as possible prior to the scheduled deposition date to request leave. No party may unilaterally adjourn a deposition.
- E. Post-EBT demands shall be served within 10 days of the completion of the EBT. Responses are due within 30 days of service of the demand.
- F. If a defendant fails to appear for an EBT, the next scheduled EBT must proceed.
- G. Plaintiff’s IMEs must be designated within 10 days of the completion of plaintiff’s EBT. IMEs must be held within 60 days of receipt of the notice of IME. A copy of the physician’s report shall be furnished to plaintiff within 45 days of the examination.
- H. Impleader shall be completed on or before 120 days after the preliminary conference unless good cause is shown by notice of motion.
  - 1. For any cases assigned to Justice Schumacher where there has already been a preliminary conference before another judge, impleader shall be completed within 30 days of the first Part 23 conference held before Justice Schumacher.
- I. Unless otherwise scheduled by the court, a party that fails to appear within 1.5 hours of the scheduled conference time may have a default judgment entered against it or have the case dismissed based upon the failure to appear (see 22 NYCRR § 202.27).
- J. Any requests for adjournments of conferences must be made at least 48 hours prior to the scheduled appearance by written stipulation submitted by email to the part clerk.
  - 1. The court will not consider any requests for an adjournment made fewer than 48 hours prior to the scheduled appearance absent a real

emergency and a written stipulation by all parties consenting to the adjournment.

2. Failure to appear by any party without prior approval of the court may result in a default being entered against it.
- K. If the court directs you to obtain a copy of the transcript of an appearance at a conference, the transcript is to be ordered and paid for as directed within 10 days of the appearance and e-filed within five days of its receipt by you.
- L. You are not to file the certificate of readiness and note of issue without first filing a stipulation or receiving an order that all discovery is complete.
1. Upon completion of all discovery, you are to e-file and email to the part clerk a stipulation signed by all parties indicating that all discovery is complete.
- M. You may e-file a stipulation signed by all parties indicating that all discovery is complete and file the note of issue in lieu of a conference. Unless you have completed both in advance of the conference, the conference is not cancelled.

### III. Motions

- A. For all motions pending in the submissions part, you must follow that part's rules regarding adjournments, scheduling, and withdrawals.
- B. This is a "paperless" e-filing part, meaning you need only e-file your motion submissions to have them considered. [NYSCEF](#) is used for all e-filing.
- C. You must upload all e-filings separately and give them meaningful names. This includes, but is not limited to, notices of motion, affidavits, affirmations, memoranda of law, and exhibits.
1. You shall e-file each exhibit under its own NYSCEF document number. The first page of each e-filing must bear the index number of the case and the motion sequence number of the motion in the upper right-hand corner of the page.
  2. Your submissions shall be typed and double-spaced, in 12 pt. Times New Roman font, with one-inch margins and page numbers beginning on page two. Any footnotes must also be in double-spaced, 12 pt. Times New Roman font. The papers shall be appropriately captioned to include: the parties, jurisdiction, venue, index number, and motion sequence number.
  3. The court will strictly enforce a **15-page limit** on each affirmation, affidavit, and memorandum of law submitted on a motion. You may

not “shift” this page limit to exceed 15 pages on a given document. The court may reject an entire submission that exceeds this limit.

4. You may not file omnibus motion papers. Do not submit papers intended to be applicable to multiple motions (e.g., a party submitting the same opposition to motion seq. nos. 001–003 must e-file the entirety of its opposition papers three times—for motion seq. no. 001, 002, and 003, and each must be labeled with the correct motion sequence number).
  5. E-filings are strongly encouraged to contain **hyperlinked case citations/bookmarks**.
  6. All substantive legal arguments, including references to statutes and case law, shall be made in memoranda of law, **only**, which shall be submitted and e-filed **separately** from any affirmations or affidavits. **Legal arguments are not to be included in affirmations.** Do not cite cases in affirmations. Instead, separately file a memorandum of law. The court may reject the entire submission of a party that fails to adhere to this rule.
  7. Each deposition transcript shall be submitted as a separate exhibit. Parties shall include a word index with all transcripts. Deposition transcripts shall be labeled to indicate both their exhibit number/letter and to identify the deposed individual.
  8. Any reference to deposition testimony must cite to the exact page and line numbers relied upon rather than merely attaching the entire transcript or “relevant portions.” The failure to follow this rule may result in the rejection of all papers filed by the offending party on the motion.
  9. Any reference to any other voluminous exhibit annexed to a motion must include pinpoint citations so that the exact location within the exhibit can be easily located.
    - a. A citation to physical therapy notes contained within an exhibit of medical records could be identified as “see physical therapy notes dated xx/xx/xx, exhibit B, at 9,” for example.
  10. The court only requires one copy of any given document to be submitted on a given motion sequence number. You are strongly encouraged to cite to each other’s transcripts, exhibits, etc., where feasible.
  11. If a motion is resolved after it is fully submitted, the movant shall immediately inform the court by emailing the part clerk a stipulation withdrawing the motion.
- D. All applications for admission **pro hac vice** shall be made by notice of motion. The motion shall include an affidavit of support from a member of the Bar of the State of New York, an affidavit from the applicant, and a recent certificate of good standing from the applicant. The applicant’s

affidavit must advise the court as to the total number of times the applicant has applied to be admitted in New York pro hac vice and how many times the application has been granted and/or denied. The affidavit must also state whether the pro hac vice applicant has ever been or is presently the subject of a disciplinary proceeding.

E. Motions brought by Order to Show Cause (OSC):

1. Any questions regarding the procedure for e-filing proposed orders to show cause should be directed to the Ex Parte Office at (646) 386-3125.
2. Any party seeking immediate injunctive relief upon the signing of the OSC (e.g., a stay, a temporary restraining order) must appear before the court to present the OSC either with all affected adversaries or bearing proof that all affected adversaries were properly noticed. Contact the part clerk to schedule the appearance in advance.
3. The court will either sign an OSC transmitted from Ex Parte or decline to sign. If signed, the court may make the OSC returnable in the Submissions Part, Room 130. The court may or may not direct oral argument.
4. Signed OSCs shall ordinarily be returnable to Part 23. Opposition papers must be e-filed at least three business days prior to the return date of the motion, and no reply papers are permitted unless otherwise directed in the OSC. A copy of all e-filed papers must also be emailed to the part clerk.
5. Absent a real emergency, OSCs may not be adjourned.

F. Discovery motions are **strongly discouraged**.

1. If a discovery dispute arises which cannot be resolved by the parties' diligent, good faith efforts, the party seeking relief may move per the CPLR. The motion must include a sufficiently specific and detailed affirmation of good faith if applicable pursuant to 22 NYCRR § 202.7.
2. Discovery motions and discovery conferences will usually be calendared together.

G. Summary Judgment Motions: All summary judgment motions must be filed within 60 days of the filing of the note of issue. The affirmation in support must include the note of issue filing date, if applicable, and annex a copy of the certificate of readiness and note of issue.

1. Motions for summary judgment prior to the completion of discovery are discouraged. Discovery must continue while any CPLR 3212 motion is pending.

H. Discovery **is not automatically stayed** pending the determination of any motions in cases assigned to this part (see CPLR 3214 [b]).

#### **IV. Communications**

- A. You may email the part clerk as indicated in these rules or for the purpose of seeking adjournments.
- B. If a motion has been withdrawn or a case has been settled or discontinued, the responsible party or parties must immediately notify the part clerk by email as appropriate.
- C. You may email the part clerk to schedule an emergency appearance on an OSC involving a request to stay or for a temporary restraining order.
- D. You may email the part clerk jointly to request a settlement conference. All parties must have agreed to the conference, and every party appearing at the conference must have full settlement authority. Direct client participation is permitted where agreed on by all parties.
- E. You may email the part clerk unopposed or joint requests to so-order (e.g., seeking leave to amend). All such requests must contain the appropriate language, including any directives as to the clerk's office, etc., where required, or they may be rejected.
- F. Other or further types of email to the part clerk are not permitted without leave of court.
- G. Other types of correspondence with the court such as letters, whether e-filed or in paper, or in-person paper submissions of any type are not permitted without leave of court.
- H. Ex parte communication with the court of any type is not permitted.
- I. The court does not accept faxes and does not have a fax number.
- J. Calls to the part clerk are strongly discouraged except in the case of a real emergency.
- K. Calls or emails to chambers for any reason are not permitted without leave of court. The court does not accept arguments by email, letter, etc.
- L. Virtual meetings, conferences, etc. (e.g., using Teams) are not available, excepting [ADA accommodations](#) made by the court as appropriate.
- M. You are strongly encouraged to sign up for [eTrack](#) for calendar updates.